

103^D CONGRESS
2^D SESSION

S. 2361

To reaffirm and clarify the Federal relationship of the Burt Lake Band as a distinct federally recognized Indian Tribe, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 4 (legislative day, JULY 20), 1994

Mr. RIEGLE (for himself and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To reaffirm and clarify the Federal relationship of the Burt Lake Band as a distinct federally recognized Indian Tribe, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Burt Lake Band of
5 Ottawa and Chippewa Indians Act of 1994”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Burt Lake Band of Ottawa and Chip-
9 pewa Indians are descendants and political succes-
10 sors to the Indians that signed the treaty between

1 the United States and the Ottawa and Chippewa na-
2 tions of Indians at Washington, D.C. on March 28,
3 1836, and the treaty between the United States and
4 the Ottawa and Chippewa Indians of Michigan at
5 Detroit on July 31, 1855.

6 (2) The Grand Traverse Band of Ottawa and
7 Chippewa Indians, the Sault Ste. Marie Tribe of
8 Chippewa Indians, and the Bay Mills Band of Chip-
9 pewa Indians, whose members are also descendants
10 of the Indians that signed the treaties referred to in
11 paragraph (1), have been recognized by the Federal
12 Government as distinct Indian tribes.

13 (3) The Burt Lake Band of Ottawa and Chip-
14 pewa Indians consists of over 600 eligible members
15 who continue to reside close to their ancestral home-
16 land as recognized in the reservations of lands under
17 the treaties referred to in paragraph (1) in the area
18 that is currently known as Cheboygan County,
19 Michigan.

20 (4) The Band continues to exist and carry out
21 political and social activities with a viable tribal gov-
22 ernment.

23 (5) The Band, along with other Michigan
24 Odawa and Ottawa groups, including the tribes de-

1 scribed in paragraph (2), formed the Northern
2 Michigan Ottawa Association in 1948.

3 (6) The Northern Michigan Ottawa Association
4 subsequently submitted a successful land claim with
5 the Indian Claims Commission.

6 (7) During the period between 1948 and 1975,
7 the Band carried out many governmental functions
8 through the Northern Michigan Ottawa Association,
9 and at the same time retained control over local
10 decisions.

11 (8) In 1975, the Northern Michigan Ottawa As-
12 sociation submitted a petition under the Act of June
13 18, 1934 (commonly referred to as the “Indian Re-
14 organization Act”) (48 Stat. 984 et seq., chapter
15 576; 25 U.S.C. 461 et seq.), to form a government
16 on behalf of the Band.

17 (9) In spite of the eligibility of the Band to
18 form a government under such Act, the Bureau of
19 Indian Affairs failed to act on such petition.

20 (10) From 1836 to the date of enactment of
21 this Act, the Federal Government, the government
22 of the State of Michigan, and political subdivisions
23 of the State have had continuous dealings with the
24 recognized political leaders of the Band.

1 **SEC. 3. DEFINITIONS.**

2 As used in this Act:

3 (1) BAND.—The term “Band” means the Burt
4 Lake Band of Ottawa and Chippewa Indians.

5 (2) MEMBER.—The term “member” means any
6 individual enrolled in the Band pursuant to section
7 7.

8 (3) SECRETARY.—The term “Secretary” means
9 the Secretary of the Interior.

10 **SEC. 4. FEDERAL RECOGNITION.**

11 (a) FEDERAL RECOGNITION.—Congress hereby reaf-
12 firms the Federal recognition of the Burt Lake Band of
13 Ottawa and Chippewa Indians.

14 (b) APPLICABILITY OF FEDERAL LAWS.—Notwith-
15 standing any other provision of law, each provision of Fed-
16 eral law (including any regulation) of general application
17 to Indians or Indian nations, tribes, or bands, including
18 the Act of June 18, 1934 (commonly referred to as the
19 “Indian Reorganization Act”) (48 Stat. 984 et seq., chap-
20 ter 576; 25 U.S.C. 461 et seq.), that is inconsistent with
21 any specific provision of this Act shall not apply to the
22 Band or any of its members.

23 (c) FEDERAL SERVICES AND BENEFITS.—

24 (1) IN GENERAL.—The Band and its members
25 shall be eligible for all services and benefits provided
26 by the Federal Government to Indians because of

1 their status as federally recognized Indians. Not-
2 withstanding any other provision of law, such serv-
3 ices and benefits shall be provided after the date of
4 the enactment of this Act to the Band and its mem-
5 bers without regard to—

6 (A) whether or not there is an Indian res-
7 ervation for the Band; or

8 (B) whether or not a member resides on or
9 near an Indian reservation.

10 (2) SERVICE AREAS.—(A) For purposes of the
11 delivery of Federal services to the enrolled members
12 of the Band, the area of the State of Michigan with-
13 in a 70-mile radius of the boundaries of the reserva-
14 tion for the Burt Lake Band, as set forth in the sev-
15 enth paragraph of Article I of the treaty between the
16 United States and the Ottawa and Chippewa Indi-
17 ans of Michigan (done at Detroit on July 31, 1855)
18 shall be deemed to be within or near a reservation.

19 (B) If an Indian reservation is established for
20 the Band after the date of enactment of this Act,
21 subparagraph (A) shall continue to apply on and
22 after the date of the establishment of the reserva-
23 tion.

24 (C) Unless prohibited by Federal law, the serv-
25 ices and benefits referred to in paragraph (1) may

1 be provided to members outside the service area de-
2 scribed in subparagraph (A).

3 **SEC. 5. REAFFIRMATION OF RIGHTS.**

4 (a) IN GENERAL.—To the extent consistent with the
5 reaffirmation of the recognition of the Band under section
6 4(a), all rights and privileges of the Band and its members
7 that have been abrogated or diminished before the date
8 of the enactment of this Act are hereby reaffirmed.

9 (b) EXISTING RIGHTS OF TRIBE.—Nothing in this
10 Act may be construed to diminish any right or privilege
11 of the Band or its members that existed before the date
12 of the enactment of this Act. Except as otherwise specifi-
13 cally provided, nothing in this Act may be construed as
14 altering or affecting any legal or equitable claim the Band
15 may have to enforce any right or privilege reserved by or
16 granted to the Band that was wrongfully denied to the
17 Band or taken from the Band before the date of enact-
18 ment of this Act.

19 **SEC. 6. TRIBAL LANDS.**

20 The tribal lands of the Band shall consist of all real
21 property held by, or in trust for, the Band. The Secretary
22 shall acquire real property for the Band. Any property ac-
23 quired by the Secretary pursuant to this section shall be
24 held in trust by the United States for the benefit of the

1 Band and shall become part of the reservation of the
2 Band.

3 **SEC. 7. MEMBERSHIP.**

4 (a) IN GENERAL.—Not later than 18 months after
5 the date of enactment of this Act, the Band shall submit
6 to the Secretary a membership roll consisting of all indi-
7 viduals currently enrolled for membership in the Band at
8 the time of the submission of the membership roll.

9 (b) QUALIFICATIONS.—The Band shall, in consulta-
10 tion with the Secretary, determine, pursuant to applicable
11 laws (including ordinances) of the Band, the qualifications
12 for including an individual on the membership roll.

13 (c) PUBLICATION OF NOTICE.—The Secretary shall
14 publish notice of receipt of the membership roll in the Fed-
15 eral Register as soon as practicable after receiving the
16 membership roll pursuant to subsection (a).

17 (d) MAINTENANCE OF ROLL.—The Band shall main-
18 tain the membership roll of the Band prepared pursuant
19 to this section in such manner as to ensure that the mem-
20 bership roll is current.

21 **SEC. 8. CONSTITUTION AND GOVERNING BODY.**

22 (a) CONSTITUTION.—

23 (1) ADOPTION.—Not later than 2 years after
24 the date of the enactment of this Act, the Secretary
25 shall conduct, by secret ballot, elections for the pur-

1 pose of adopting a new constitution for the Band.
2 The elections shall be held according to the proce-
3 dures applicable to elections under section 16 of the
4 Act of June 18, 1934 (commonly referred to as the
5 “Indian Reorganization Act”) (48 Stat. 987, chapter
6 576; 25 U.S.C. 476).

7 (2) INTERIM GOVERNING DOCUMENTS.—Until
8 such time as a new constitution is adopted under
9 paragraph (1), the governing documents in effect on
10 the date of the enactment of this Act shall be the
11 interim governing documents for the Band.

12 (b) OFFICIALS.—

13 (1) ELECTIONS.—Not later than 180 days after
14 the Band adopts a constitution and bylaws pursuant
15 to subsection (a), the Band shall conduct elections
16 by secret ballot for the purpose of electing officials
17 for the Band as provided in the governing constitu-
18 tion of the Band. The elections shall be conducted
19 according to the procedures described in the govern-
20 ing constitution and bylaws of the Band.

21 (2) INTERIM GOVERNMENTS.—Until such time
22 as the Band elects new officials pursuant to para-
23 graph (1), the governing bodies of the Band shall in-
24 clude each governing body of the Band in effect on
25 the date of the enactment of this Act, or any suc-

- 1 ceeding governing body selected under the election
- 2 procedures specified in the applicable interim gov-
- 3 erning documents of the Band.

